



General Assembly

Amendment

September Special Session, 2007

LCO No. 9927

SB0160009927HRO

Offered by:

REP. CAFERO, 142nd Dist.

REP. HAMZY, 78th Dist.

REP. KLARIDES, 114th Dist.

To: Senate Bill No. 1600

File No.

Cal. No.

"AN ACT CONCERNING CLEAN CONTRACTING STANDARDS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective January 1, 2009*) For the purposes of
4 sections 1 to 46, inclusive, of this act:

5 (1) "Best value selection" means a contract selection process in which
6 the award of a contract is based on a combination of quality, timeliness
7 and cost factors;

8 (2) "Bid" means an offer, submitted in response to an invitation to
9 bid, to furnish supplies, materials, equipment, construction or
10 contractual services to a state contracting agency under prescribed
11 conditions at a stated price;

12 (3) "Bidder" means a business submitting a bid in response to an

13 invitation to bid by a state contracting agency;

14 (4) "Business" means any individual or sole proprietorship,
15 partnership, firm, corporation, trust, limited liability company, limited
16 liability partnership, joint stock company, joint venture, association or
17 other legal entity through which business for profit or not-for-profit is
18 conducted;

19 (5) "Competitive bidding" means the submission of prices by a
20 business competing for a contract to provide supplies, materials,
21 equipment or contractual services to a state contracting agency, under
22 a procedure in which the contracting authority does not negotiate
23 prices, as set forth in statutes and regulations concerning procurement;

24 (6) "Consultant" means (A) any architect, professional engineer,
25 landscape architect, land surveyor, accountant, interior designer,
26 environmental professional or construction administrator, who is
27 registered or licensed to practice such person's profession in
28 accordance with the applicable provisions of the general statutes, (B)
29 any planner or any environmental, management or financial specialist,
30 or (C) any person who performs professional work in areas including,
31 but not limited to, educational services, medical services, information
32 technology and real estate appraisal;

33 (7) "Consultant services" means those professional services rendered
34 by a consultant and any incidental services that a consultant and those
35 in the consultant's employ are authorized to perform;

36 (8) "Contract" or "state contract" means an agreement or a
37 combination or series of agreements between a state contracting
38 agency or quasi-public agency and a business for:

39 (A) A project for the construction, reconstruction, alteration,
40 remodeling, repair or demolition of any public building, public work,
41 mass transit, rail station, parking garage, rail track or airport;

42 (B) Services, including, but not limited to, consultant and

43 professional services;

44 (C) The acquisition or disposition of personal property;

45 (D) The provision of goods and services, including, but not limited
46 to, the use of purchase of services contracts and personal service
47 agreements;

48 (E) The provision of information technology, state agency
49 information system or telecommunication system facilities, equipment
50 or services;

51 (F) A lease; or

52 (G) A licensing agreement;

53 "Contract" or "state contract" does not include a contract between a
54 state agency or a quasi-public agency and a political subdivision of the
55 state;

56 (9) "Term contract" means the agreement reached when the state
57 accepts a bid or proposal to furnish supplies, materials, equipment or
58 contractual services at a stated price for a specific period of time in
59 response to an invitation to bid;

60 (10) "Contract risk assessment" means (A) the identification and
61 evaluation of loss exposures and risks, including, but not limited to,
62 business and legal risks associated with the contracting process and
63 the contracted goods and services, and (B) the identification,
64 evaluation and implementation of measures available to minimize
65 potential loss exposures and risks;

66 (11) "Contractor" means any business that is awarded, or is a
67 subcontractor under, a contract or an amendment to a contract with a
68 state contracting agency under statutes and regulations concerning
69 procurement, including, but not limited to, a small contractor, minority
70 business enterprise, an individual with a disability, as defined in
71 section 4a-60 of the general statutes or an organization providing

72 products and services by persons with disabilities;

73 (12) "Contractual services" means the furnishing of labor by a
74 contractor, not involving the delivery of a specific end product other
75 than reports, which are merely incidental to the required performance
76 and includes any and all laundry and cleaning service, pest control
77 service, janitorial service, security service, the rental and repair, or
78 maintenance, of equipment, machinery and other state-owned
79 personal property, advertising and photostating, mimeographing,
80 human services and other service arrangements where the services are
81 provided by persons other than state employees. "Contractual services"
82 includes the design, development and implementation of technology,
83 communications or telecommunications systems or the infrastructure
84 pertaining thereto, including hardware and software and services for
85 which a contractor is conferred a benefit by the state, whether or not
86 compensated by the state. "Contractual services" does not include
87 employment agreements or collective bargaining agreements;

88 (13) "Data" means recorded information, regardless of form or
89 characteristic;

90 (14) "Vote of two-thirds of the members of the board present and
91 voting" means a vote by the State Contracting Standards Board that is
92 agreed upon by two-thirds of the members of the State Contracting
93 Standards Board present and voting for a particular purpose and that
94 includes the vote of one member of the board appointed by a
95 legislative leader;

96 (15) "Electronic" means electrical, digital, magnetic, optical,
97 electromagnetic, or any other similar technology;

98 (16) "Emergency procurement" means procurement by a state
99 contracting agency, quasi-public agency, as defined in section 1-120 of
100 the general statutes, judicial department or constituent unit of higher
101 education that is made necessary by a sudden, unexpected occurrence
102 that poses a clear and imminent danger to public safety or requires
103 immediate action to prevent or mitigate the loss or impairment of life,

104 health, property or essential public services or in response to a court
105 order, settlement agreement or other similar legal judgment;

106 (17) "Equipment" means personal property of a durable nature that
107 retains its identity throughout its useful life;

108 (18) "Materials" means items required to perform a function or used
109 in a manufacturing process, particularly those incorporated into an
110 end product or consumed in its manufacture;

111 (19) "Nonprofit agency" means any organization that is not a for-
112 profit business under 501(c)(3) of the Internal Revenue Code of 1986, or
113 any subsequent corresponding internal revenue code of the United
114 States, as from time to time amended, makes no distribution to its
115 members, directors or officers and provides services contracted for by
116 (A) the state, or (B) a nonstate entity;

117 (20) "Professional services" means any type of service to the public
118 that requires that members of a profession rendering such service
119 obtain a license or other legal authorization as a condition precedent to
120 the rendition thereof, including, but not limited to, the professional
121 services of architects, professional engineers, or jointly by architects
122 and professional engineers, landscape architects, certified public
123 accountants and public accountants, land surveyors, attorneys-at-law,
124 psychologists, licensed marital and family therapists, licensed
125 professional counselors and licensed clinical social workers as well as
126 such other professional services described in section 33-182a of the
127 general statutes;

128 (21) "Privatization contract" means an agreement or series of
129 agreements between a state contracting agency and a person or entity
130 in which such person or entity agrees to provide services that are
131 substantially similar to and in lieu of services provided, in whole or in
132 part, by state employees, other than contracts with a nonprofit agency,
133 which are in effect as of the effective date of this section and which
134 through a renewal, modification, extension or rebidding of contracts
135 continue to be provided by a nonprofit agency;

136 (22) "Procurement" means contracting for, buying, purchasing,
137 renting, leasing or otherwise acquiring or disposing of, any supplies,
138 services, including but not limited to, contracts for purchase of services
139 and personal service agreements, interest in real property, or
140 construction, and includes all government functions that relate to such
141 activities, including best value selection and qualification based
142 selection;

143 (23) "Proposer" means a business submitting a proposal to a state
144 contracting agency in response to a request for proposals or other
145 competitive sealed proposal;

146 (24) "Public record" means a public record, as defined in section 1-
147 200 of the general statutes;

148 (25) "Qualification based selection" means a contract selection
149 process in which the award of a contract is primarily based on an
150 assessment of contractor qualifications and on the negotiation of a fair
151 and reasonable price;

152 (26) "Regulation" means regulation, as defined in section 4-166 of
153 the general statutes;

154 (27) "Request for proposals" means all documents, whether attached
155 or incorporated by reference, utilized for soliciting proposals;

156 (28) "State contracting agency" means any executive branch agency,
157 board, commission, department, office, institution or council. "State
158 contracting agency" does not include the Judicial Branch, the
159 Legislative Branch, the offices of the Secretary of the State, the State
160 Comptroller, the Attorney General, the State Treasurer, with respect to
161 their constitutional functions, any state agency with respect to
162 contracts specific to the constitutional and statutory functions of the
163 office of the State Treasurer;

164 (29) "Subcontractor" means a subcontractor of a contractor for work
165 under a contract or an amendment to a contract;

166 (30) "Supplies" means any and all articles of personal property,
167 including, but not limited to, equipment, materials, printing, insurance
168 and leases of real property, excluding land or a permanent interest in
169 land furnished to or used by any state agency;

170 (31) "Infrastructure facility" means a building, structure or network
171 of buildings, structures, pipes, controls and equipment that provide
172 transportation, utilities, public education or public safety services.
173 Infrastructure facility includes government office buildings, public
174 schools, jails, water treatment plants, distribution systems and
175 pumping stations, waste water treatment plants, collections systems
176 and pumping stations, solid waste disposal plants, incinerators,
177 landfills, and related facilities, public roads and streets, highways,
178 public parking facilities, public transportation systems, terminals and
179 rolling stock, rail, air and water port structures, terminals and
180 equipment; and

181 (32) "State employee" means state employee, as defined in section 5-
182 154 of the general statutes.

183 Sec. 2. (NEW) (*Effective January 1, 2009*) (a) There is established a
184 State Contracting Standards Board that shall consist of fourteen
185 members appointed as follows: Eight members by the Governor, two
186 members by the speaker of the House of Representatives, two
187 members by the president pro tempore of the Senate, one member by
188 the majority leader of the Senate and one member by the majority
189 leader of the House of Representatives. In the event that the party of
190 the Governor also controls both houses of the General Assembly, the
191 board shall be appointed as follows: Eight members by the Governor,
192 one member by the president pro tempore of the Senate, one member
193 by the speaker of the House of Representatives, one member by the
194 majority leader of the Senate, one member of the majority leader of the
195 House of Representatives, one member by the minority leader of the
196 Senate and one member by the minority leader of the House of
197 Representatives.

198 (b) Each member shall have demonstrated sufficient knowledge by
199 education, training or experience in one or more of the following
200 enumerated areas: (1) Procurement; (2) contract negotiation, selection
201 and drafting; (3) contract risk assessment; (4) competitive bidding and
202 proposal procedures; (5) real estate transactions, including the
203 purchase, sale and lease of real estate and buildings; (6) building
204 construction and architecture; (7) business insurance and bonding; (8)
205 ethics in public contracting; (9) federal and state statutes, procurement
206 policies and regulations; (10) outsourcing and privatization analysis;
207 (11) small and minority business enterprise development; (12)
208 engineering and information technologies; (13) human services and
209 (14) personnel and labor relations, provided such education, training
210 or experience was acquired over not less than a continuous five-year
211 period within the ten-year period preceding such appointment.

212 (c) The chairperson of the board shall be appointed by the
213 Governor. The terms of the members shall be coterminous with the
214 terms of the appointing authority for each member and subject to the
215 provisions of section 4-1a of the general statutes. If any vacancy occurs
216 on the board, the appointing authority having the power to make the
217 appointment under the provisions of this section shall appoint a
218 person in accordance with the provisions of this section.

219 (d) The State Contracting Standards Board shall be an independent
220 body within the Executive Department.

221 (e) The chairperson of the board and other members of the board
222 shall be compensated two hundred dollars per diem. No person shall
223 serve on the board who is a state or municipal employee. No board
224 member or any spouse, child, stepchild, parent or sibling of such board
225 member shall be directly involved in any enterprise that does business
226 with the state.

227 (f) The Governor shall appoint an executive director of the board
228 who shall serve as an ex-officio, nonvoting member of the board. The
229 executive director shall be appointed in accordance with the provisions

230 of section 4-7 of the general statutes and may be removed from office
231 for reasonable cause, in accordance with chapter 67 of the general
232 statutes. The board shall, annually, conduct a performance evaluation
233 of such executive director. The executive director shall report to the
234 chairperson of the board and, in consultation with the Chief
235 Procurement Officer, (1) conduct comprehensive planning with respect
236 to the administrative functions of the board; (2) coordinate the budget
237 and personnel activities of the board; (3) cause the administrative
238 organization of the board to be examined with a view to promoting
239 economy and efficiency; (4) act as the external liaison for the board;
240 and (5) execute such other duties as may be assigned by the
241 chairperson of the board or the board, as applicable. The executive
242 director may enter into such contractual agreements as may be
243 necessary for the discharge of the director's duties.

244 (g) The board shall appoint a Chief Procurement Officer for a term
245 not to exceed six years, unless reappointed pursuant to the provisions
246 of this subsection. The Chief Procurement Officer shall report to the
247 board and annually be evaluated by, and serve at the pleasure of, the
248 board. For administrative purposes only, the Chief Procurement
249 Officer shall be supervised by the executive director.

250 (1) The Chief Procurement Officer shall be responsible for carrying
251 out the policies of the board relating to procurement including, but not
252 limited to, oversight, investigation, auditing, agency procurement
253 certification and procurement and project management training and
254 enforcement of said policies as well as the application of such policies
255 to the screening and evaluation of current and prospective contractors.
256 The Chief Procurement Officer may enter into such contractual
257 agreements as may be necessary for the discharge of the duties as set
258 forth in this subsection and by the board, including, but not limited to,
259 recommending best practices and providing operational and
260 administrative assistance to state agencies determined, by the board, to
261 be in violation of sections 16 to 46, inclusive, of this act.

262 (2) In addition to the duties set forth by the board, the Chief

263 Procurement Officer shall (A) oversee state contracting agency
264 compliance with the provisions of statutes and regulations concerning
265 procurement; (B) monitor and assess the performance of the
266 procurement duties of each Agency Procurement Officer; (C)
267 administer the certification system and monitor the level of agency
268 compliance with the requirements of statutes and regulations
269 concerning procurement, including, but not limited to, the education
270 and training, performance and qualifications of Agency Procurement
271 Officers; (D) review and monitor the procurement processes of each
272 state contracting agency, quasi-public agencies and institutions of
273 higher education; and (E) serve as chairperson of the Contracting
274 Standards Advisory Council and an ex-officio member of the Vendor
275 and Citizen Advisory Panel.

276 (h) The board may contract with consultants and professionals on a
277 temporary or project by project basis and may employ, subject to the
278 provisions of chapter 67 of the general statutes, such employees as may
279 be necessary to carry out the provisions of this section.

280 (i) The reasonable expenses of the State Contracting Standards
281 Board and its employees shall be paid from the budget of the board,
282 upon the approval of the board.

283 (j) No employee of the State Contracting Standards Board shall hold
284 another state or municipal position. No nonclerical employee of the
285 board or any spouse, child, stepchild, parent or sibling of such
286 employee, shall be associated with an enterprise that does business
287 with the state. For purposes of this subsection, "associated with" means
288 "business with which he is associated", as defined in section 1-79 of the
289 general statutes. Each member and employee of the State Contracting
290 Standards Board shall file, with the board and with the Office of State
291 Ethics, a statement of financial interests, as described in section 1-83 of
292 the general statutes. Such statement shall be a public record. Such
293 statements for the preceding calendar year shall be filed with the
294 Office of State Ethics, as required by law, if such employee or member
295 held such a position during the preceding calendar year.

296 (k) Any violation of the provisions of subsection (j) of this section
297 shall constitute a violation of part I of chapter 10 of the general statutes
298 and may be the subject of a complaint and investigation filed and
299 conducted in accordance with the provisions of section 1-82 of the
300 general statutes.

301 (l) The board shall adopt such rules as it deems necessary for the
302 conduct of its internal affairs, in accordance with section 4-167 of the
303 general statutes, including, but not limited to, rules of procedure for
304 any audit undertaken pursuant to section 6 of this act.

305 (m) Eight members of the board, including not less than one
306 member appointed by a legislative leader, shall constitute a quorum
307 which shall be required for the transaction of business by the board.

308 Sec. 3. (NEW) (*Effective January 1, 2009*) (a) All rights, powers, duties,
309 and authority relating to the procurement policies of the state, vested
310 in, or exercised by, any state contracting agency may also be exercised
311 by the board, provided such rights, powers, duties and authority may
312 be exercised by the board as provided in sections 3 to 46, inclusive, of
313 this act, and absent any affirmative action by the board, pursuant to
314 said sections of this act, shall not be deemed to limit or restrict the
315 exercise of such rights, powers, duties and authority by any such state
316 contracting agency. Such rights, powers, duties and authority shall
317 include the following:

318 (1) Acquisition of supplies, services, and construction, and the
319 management, control, warehousing, sale, and disposal of supplies,
320 services, and construction;

321 (2) Any state contracting and procurement processes, including, but
322 not limited to, leasing and property transfers, purchasing or leasing of
323 supplies, materials or equipment, consultant or consultant services,
324 purchase of service agreements or privatization contracts; and

325 (3) Contracts for the construction, reconstruction, alteration,
326 remodeling, repair or demolition of any public building.

327 (b) Notwithstanding any provision of chapter 14 of the general
328 statutes upon request by the board, each state contracting agency,
329 including institutions of higher education, shall provide the board, in a
330 timely manner, with such procurement information as the board
331 deems necessary. The board shall have access to all information, files
332 and records related to any state contracting agency in furtherance of
333 the board's duties, as described in sections 3 to 46, inclusive, of this act.
334 Nothing in this section shall be construed to require the board's
335 disclosure of documents that are exempt from disclosure pursuant to
336 chapter 14 of the general statutes.

337 Sec. 4. (NEW) (*Effective January 1, 2009*) Except as otherwise
338 provided in the general statutes, the board shall have the following
339 authority and responsibilities with respect to procurements by state
340 contracting agencies:

341 (a) Recommend the repeal of repetitive, conflicting or obsolete
342 statutes concerning state procurement;

343 (b) Review and make recommendations concerning proposed
344 legislation and regulations concerning procurement, management,
345 control, and disposal of any and all supplies, services, and construction
346 to be procured by the state, including, but not limited to:

347 (1) Conditions and procedures for delegation of procurement
348 authority;

349 (2) Prequalification, suspension, debarment and reinstatement of
350 prospective bidders and contractors;

351 (3) Small purchase procedures;

352 (4) Conditions and procedures for the procurement of perishables
353 and items for resale;

354 (5) Conditions and procedures for the use of source selection
355 methods authorized by statutes and regulations concerning
356 procurement;

- 357 (6) Conditions and procedures for the use of emergency
358 procurements;
- 359 (7) Conditions and procedures for the selection of contractors by
360 processes or methods that restrict full and open competition;
- 361 (8) The opening or rejection of bids and offers, and waiver of errors
362 in bids and offers;
- 363 (9) Confidentiality of technical data and trade secrets submitted by
364 actual or prospective bidders;
- 365 (10) Partial, progressive and multiple awards;
- 366 (11) Supervision of storerooms and inventories, including
367 determination of appropriate stock levels and the management,
368 transfer, sale or other disposal of publicly-owned supplies;
- 369 (12) Definitions and classes of contractual services and procedures
370 for acquiring such services;
- 371 (13) Regulations providing for conducting cost and price analysis;
- 372 (14) Use of payment and performance bonds;
- 373 (15) Guidelines for use of cost principles in negotiations,
374 adjustments and settlements; and
- 375 (16) Identification of procurement best practices;
- 376 (c) Adopt regulations, pursuant to chapter 54 of the general statutes,
377 to carry out the provisions of statutes concerning procurement, in
378 order to facilitate consistent application of the law and require the
379 implementation of procurement best practices;
- 380 (d) Make recommendations with regard to information systems for
381 state procurement including, but not limited to, data element and
382 design and the State Contracting Portal;

383 (e) Develop a guide to state statutes and regulations concerning
384 procurement, for use by all state contracting agencies;

385 (f) Assist state contracting agencies in complying with the statutes
386 and regulations concerning procurement by providing guidance,
387 models, advice and practical assistance to state contracting agency staff
388 relating to: (1) Buying the best service at the best price, (2) properly
389 selecting contractors, and (3) drafting contracts that achieve state goals
390 of accountability, transparency and results based outcomes and to
391 protect taxpayers' interest;

392 (g) Train and oversee the Agency Procurement Officer of each state
393 contracting agency and any contracting officers thereunder;

394 (h) Review and certify, on or after January 1, 2009, that a state
395 contracting agency's procurement processes are in compliance with
396 statutes and regulations concerning procurement by:

397 (1) Establishing procurement and project management education
398 and training criteria and certification procedures for Agency
399 Procurement Officers and contracting officers. All Agency
400 Procurement Officers and contracting officers designated under this
401 provision shall be required to maintain the certification in good
402 standing at all times while performing procurement functions;

403 (2) Approving an ethics training course, in consultation with the
404 Office of State Ethics, including, but not limited to, state employees
405 involved in procurement and for state contractors and substantial
406 subcontractors who are prequalified pursuant to chapter 58a of the
407 general statutes. Such ethics training course may be developed and
408 provided by the Office of State Ethics or by any person, firm or
409 corporation provided such course is approved by the State Contracting
410 Standards Board;

411 (i) Recertify each state contracting agency's procurement processes,
412 triennially, and provide agencies with notice of any certification
413 deficiency and exercise those powers authorized by section 33, 38 or 39

414 of this act, as applicable, if a determination of noncompliance is made;

415 (j) Define the contract data reporting requirements to the board for
416 state agencies concerning information on: (1) The number and type of
417 state contracts of each state contracting agency currently in effect state-
418 wide; (2) the term and dollar value of such contracts; (3) a list of client
419 agencies; (4) a description of services purchased under such contracts;
420 (5) contractor names; (6) an evaluation of contractor performance,
421 including, but not limited to records pertaining to the suspension or
422 disqualification of contractors, and assuring such information is
423 available on the state contracting portal; and (7) a list of contracts and
424 contractors awarded without full and open competition stating the
425 reasons for and identifying the approving authority; and

426 (k) Provide the Governor and the joint standing committee of the
427 General Assembly having cognizance of matters relating to
428 government administration with recommendations concerning the
429 statutes and regulations concerning procurement.

430 Sec. 5. (NEW) (*Effective January 1, 2009*) (a) (1) The head of each state
431 contracting agency shall appoint an Agency Procurement Officer. Such
432 officer shall serve as the liaison between the agency and the Chief
433 Procurement Officer on all matters relating to the agency's
434 procurement activity, including, but not limited to, implementation
435 and compliance with the provisions of statutes and regulations
436 concerning procurement and any policies or regulations adopted by
437 the board, coordination of the training and education of agency
438 procurement employees and any person serving on the Contracting
439 Standards Advisory Council;

440 (2) The Agency Procurement Officer shall be responsible for
441 assuring that contractors are properly screened prior to the award of a
442 contract, evaluating contractor performance during and at the
443 conclusion of a contract, submitting written evaluations to a central
444 data repository to be designated by the board and creating a project
445 management plan for the agency with annual reports to the board

446 pertaining to procurement projects within the agency.

447 (b) The State Contracting Standards Board, with the advice and
448 assistance of the Commissioner of Administrative Services, shall
449 develop a standardized state procurement and project management
450 education and training program. Such education and training program
451 shall develop education, training and professional development
452 opportunities for employees of state contracting agencies charged with
453 procurement responsibilities. The program shall educate such
454 employees in general business acumen and on proper purchasing
455 procedures as established in statutes and regulations concerning
456 procurement with an emphasis on ethics, fairness, consistency and
457 project management. Participation in the program shall be required of
458 any supervisory and nonsupervisory state employees in state
459 contracting agencies with responsibility for buying, purchasing,
460 renting, leasing or otherwise acquiring any supplies, service or
461 construction, including the preparation of the description of
462 requirements, selection and solicitation of sources, preparation and
463 award of contracts and all phases of contract administration.

464 (c) The program shall include, but shall not be limited to (1) training
465 and education concerning federal, state and municipal procurement
466 processes, including the statutes and regulations concerning
467 procurement; (2) training and education courses developed in
468 cooperation with the Office of State Ethics, the Freedom of Information
469 Commission, the State Elections Enforcement Commission, the
470 Commission on Human Rights and Opportunities, the office of the
471 Attorney General and any other state agency the board determines is
472 necessary in carrying out statutes and regulations concerning
473 procurement; (3) providing technical assistance to state contracting
474 agencies and municipalities for implementing statutes and regulations
475 concerning procurement, regulations, policies and standards
476 developed by the board; (4) training to current and prospective
477 contractors and vendors and others seeking to do business with the
478 state; and (5) training and education of state employees in the area of
479 best procurement practices in state purchasing with the goal of

480 achieving the level of acumen necessary to achieve the objectives of
481 statutes and regulations concerning procurement.

482 (d) Any employee who completes the program established under
483 subsection (b) of this section shall be issued documentation by the
484 board acknowledging such employee's participation in the program.
485 The board shall submit an annual report to the Governor and the
486 General Assembly on the status of such program in accordance with
487 section 11-4a of the general statutes.

488 (e) The board shall adopt regulations, in accordance with the
489 provisions of chapter 54 of the general statutes, to develop and
490 implement the training and education program established under
491 subsection (b) of this section.

492 Sec. 6. (NEW) (*Effective October 1, 2011*) (a) The board shall conduct
493 audits of state contracting agencies, triennially, to ensure compliance
494 with statutes and regulations concerning procurement. In conducting
495 each such audit, the board shall have access to all contracting and
496 procurement records, may interview any and all personnel responsible
497 for contracting, contract negotiations or procurement and may enter
498 into an agreement with the Auditors of Public Accounts to effectuate
499 such audit.

500 (b) Upon completion of any such audit, the board shall prepare and
501 issue a compliance report for the state contracting agency. Such report
502 shall identify any process or procedure that is inconsistent with
503 statutes and regulations concerning procurement and indicate those
504 corrective measures the board deems necessary to comply with
505 statutes and regulations concerning procurement requirements. Such
506 report shall be issued and delivered not later than thirty days after
507 completion of such audit and shall be a public record.

508 Sec. 7. (NEW) (*Effective October 1, 2011*) (a) For cause, the State
509 Contracting Standards Board may review, terminate or recommend to
510 a state contracting agency the termination of any contract or
511 procurement agreement undertaken by any state contracting agency

512 after providing fifteen days notice to the state contracting agency and
513 the applicable contractor, and consulting with the Attorney General.
514 Such termination of a contract or procurement agreement by the board
515 may occur only after (1) the board has consulted with the contracting
516 agency to determine the impact of an immediate termination of the
517 contract, (2) a determination has been made jointly by the board and
518 the contracting agency that an immediate termination of the contract
519 will not create imminent peril to the public health, safety or welfare, (3)
520 a vote of two-thirds of the members of the board present and voting
521 for that purpose, and (4) the board has provided the state contracting
522 agency and the contractor with opportunity for a hearing conducted
523 pursuant to the provisions of chapter 54 of the general statutes. Such
524 action shall be accompanied by notice to the state contracting agency
525 and any other affected party. For the purpose of this section, "for
526 cause" means: (A) A violation of section 1-84 or 1-86e of the general
527 statutes, as determined by the Citizen's Ethics Advisory Board; (B)
528 wanton or reckless disregard of any state contracting and procurement
529 process by any person substantially involved in such contract or state
530 contracting agency; or (C) notification from the Attorney General to
531 the state contracting agency that an investigation pursuant to section 4-
532 61dd of the general statutes has concluded that the process by which
533 such contract was awarded was compromised by fraud, collusion or
534 any other criminal violation. Nothing in this section shall be construed
535 to limit the authority of the board as described in section 6 of this act.

536 (b) Following consultation with the state contracting agency and
537 upon providing fifteen days' notice and the opportunity for a hearing,
538 the State Contracting Standards Board may restrict or terminate the
539 authority of any state contracting agency to enter into any contract or
540 procurement agreement if: (1) The board, upon a vote of two-thirds of
541 the members of the board present and voting for such purpose,
542 determines that such state contracting agency failed to comply with
543 statutory contracting and procurement requirements and evidenced a
544 reckless disregard for applicable procedures and policy; and (2) such
545 limitation, restriction or termination of authority is in the state's best

546 interest, provided the board has made arrangements for the exercise of
547 the contracting power of such agency during the period of limitation,
548 restriction or termination. Such limitation, restriction or termination of
549 authority shall remain in effect until such time as the board determines
550 that such state contracting agency has implemented corrective
551 measures and demonstrated compliance with statutes and regulations
552 concerning procurement.

553 (c) Following consultation with the state contracting agency, and
554 thereafter upon providing fifteen days' notice and the opportunity for
555 a hearing, the State Contracting Standards Board may order a state
556 contracting agency to take appropriate action to restrict or terminate
557 the authority of an employee or agent to enter into any contract or
558 procurement agreement if the board, upon a vote of two-thirds of the
559 members of the board present and voting for such purpose, determines
560 that such employee or agent failed to comply with statutory
561 contracting and procurement requirements, and evidenced a reckless
562 disregard for applicable procedures and policy. Such limitation,
563 restriction or termination of authority shall remain in effect until such
564 time as the board determines that such state contracting agency has
565 implemented corrective measures and demonstrated compliance with
566 statutes and regulations concerning procurement.

567 Sec. 8. (NEW) (*Effective January 1, 2009*) There is established a
568 Contracting Standards Advisory Council, which shall consist of
569 representatives from the Office of Policy and Management,
570 Departments of Administrative Services, Transportation, Public Works
571 and Information Technology and representatives of at least three
572 additional contracting agencies, including at least one human services
573 related state agency, designated by the Governor. The Chief
574 Procurement Officer shall be a member of the council and serve as
575 chairperson. The advisory council shall meet at least four times per
576 year to discuss state procurement issues and to make
577 recommendations for improvement of the procurement processes to
578 the State Contracting Standards Board. The advisory council may
579 conduct studies, research and analyses and make reports and

580 recommendations with respect to subjects or matters within the
581 jurisdiction of the State Contracting Standards Board.

582 Sec. 9. (NEW) (*Effective January 1, 2009*) (a) There shall be a Vendor
583 and Citizen Advisory Panel comprised of fifteen members appointed
584 as follows: Three members by the Governor, two members by each of
585 the following: The speaker of the House of Representatives, the
586 majority and minority leaders of the House of Representatives, the
587 president pro tempore of the Senate and the majority and minority
588 leaders of the Senate. No more than six vendors with state
589 procurement experience shall be on the panel and the remaining
590 members shall have demonstrated sufficient knowledge by education,
591 training or experience in one or more of the following areas: (1)
592 Government procurement; (2) contract negotiation, drafting and
593 management; (3) contract risk assessment; (4) preparing requests for
594 proposals, invitations to bid and other procurement solicitations; (5)
595 evaluating proposals, bids and quotations; (6) real property
596 transactions; (7) business insurance and bonding; (8) the state code of
597 ethics; (9) federal and state statutes, policies and regulations; (10)
598 outsourcing and privatization proposal analysis; (11) governmental
599 taxation and finance; (12) small and minority business enterprise
600 development; (13) collective bargaining; and (14) human services,
601 provided such education, training or experience shall have been
602 acquired over not less than a continuous five-year period and within
603 the ten-year period preceding such appointment. The chairperson of
604 the panel shall be the Chief Procurement Officer, who shall be an ex-
605 officio member.

606 (b) The panel shall make recommendations to the board regarding
607 best practices in state procurement processes and project management
608 as well as other issues pertaining to stakeholders in the system.

609 Sec. 10. (NEW) (*Effective January 1, 2009*) (a) On or before July 1,
610 2010, the board shall submit to the Governor and the General
611 Assembly such legislation as is necessary to permit state contracting
612 agencies, not including quasi-publics, institutions of higher education,

613 and municipal procurement processes utilizing state funds, to carry
614 out their functions under statutes and regulations concerning
615 procurement.

616 (b) On or before July 1, 2011, the board shall submit to the Governor
617 and the General Assembly such legislation as is necessary to apply the
618 provisions of statutes concerning procurement to constituent units of
619 the state system of higher education. Concomitantly, the board shall
620 submit such additional legislation as is necessary to apply the
621 provisions of statutes and regulations concerning privatization and
622 procurement to quasi-public agencies.

623 (c) On or before July 1, 2012, the board shall submit to the Governor
624 and the General Assembly such legislation as is necessary to apply the
625 provisions of statutes and regulations concerning procurement to the
626 municipal procurement processes utilizing state funds.

627 Sec. 11. (NEW) (*Effective January 1, 2009*) (a) The board shall provide
628 assistance to the Secretary of the State, Comptroller, Treasurer and
629 Attorney General to develop best procurement practices specific to the
630 constitutional and statutory functions of each office and consistent
631 with statutes and regulations concerning procurement.

632 (b) Each of the officers specified in subsection (a) of this section shall
633 adopt a code of procurement practices on or before June 1, 2011.

634 Sec. 12. (NEW) (*Effective January 1, 2009*) (a) On or before February 1,
635 2011, the Judicial Branch and the Legislative Branch shall each prepare
636 a procurement code applicable to contracting expenditures, including,
637 but not limited to, expenditures: (1) Involving contracting and
638 procurement processes for purchasing or leasing of supplies, materials
639 or equipment, consultant or consultant services, personal service
640 agreements or purchase of service agreements; and (2) relating to
641 contracts for the renovation, alteration or repair of any Judicial Branch
642 or Legislative Branch facility in accordance with section 4b-1 of the
643 general statutes.

644 (b) The procurement codes described in subsection (a) of this section
645 shall be designed to: (1) Establish uniform contracting standards and
646 practices; (2) simplify and clarify contracting standards and
647 procurement policies and practices, including, but not limited to,
648 procedures for competitive sealed bids, competitive sealed proposals,
649 small purchases, sole source procurements, emergency procurements
650 and special procurements; (3) ensure the fair and equitable treatment
651 of all businesses and persons who deal with the procurement system;
652 (4) include a process to maximize the use of small contractors and
653 minority business enterprises; (5) provide increased economy in
654 procurement activities and maximize purchasing value to the fullest
655 extent possible; (6) ensure that the procurement of supplies, materials,
656 equipment, services, real property and construction is obtained in a
657 cost-effective and responsive manner; (7) include a process to ensure
658 contractor and Judicial Branch or Legislative Branch accountability;
659 and (8) provide a process for competitive sealed bids, competitive
660 sealed proposals, small purchases, sole source procurements,
661 emergency procurements, special procurements, best value selection,
662 qualification based selection and the conditions for their use.

663 (c) On or before February 1, 2011, the Judicial Branch shall submit
664 such procurement code for review and approval to the joint standing
665 committee of the General Assembly having cognizance of matters
666 relating to the judiciary.

667 Sec. 13. (NEW) (*Effective January 1, 2009*) (a) The Department of
668 Administrative Services, in consultation with the State Contracting
669 Standards Board, shall establish and maintain a single electronic portal
670 available on the Internet and located on the Department of
671 Administrative Services' web site for purposes of posting all
672 contracting opportunities with state agencies in the executive branch,
673 the constituent units of the state system of higher education and quasi-
674 public agencies. Such electronic portal shall be known as the State
675 Contracting Portal.

676 (b) The State Contracting Portal shall, among other things, include:

677 (1) All requests for bids or proposals, and other solicitations regardless
678 of the method of source selection, related materials and all resulting
679 contracts and agreements by state agencies; (2) a searchable database
680 for locating information; (3) personal services agreements and
681 purchase of service agreements; (4) a state procurement and contract
682 manual or other similar information designated by the Department of
683 Administrative Services as describing approved contracting processes
684 and procedures; and (5) prominent features to encourage the active
685 recruitment and participation of small businesses and women and
686 minority owned enterprises in the state contracting process.

687 (c) All state agencies in the executive branch, the constituent units of
688 the state system of higher education and quasi-public agencies shall
689 post all bids, requests for proposals and all resulting contracts and
690 agreements on the State Contracting Portal and shall, with the
691 assistance of the Department of Administrative Services and the
692 Department of Information Technology as needed, develop the
693 infrastructure and capability to electronically communicate with the
694 State Contracting Portal.

695 (d) All state agencies in the executive branch, the constituent units
696 of the state system of higher education and quasi-public agencies shall
697 develop written policies and procedures to ensure that information is
698 posted to the State Contracting Portal in a timely, complete and
699 accurate manner consistent with the highest legal and ethical
700 standards of state government.

701 (e) The Department of Administrative Services shall periodically
702 report to the Governor and the State Contracting Standards Board on
703 the progress of all state agencies in the executive branch, the
704 constituent units of the state system higher education and quasi-public
705 agencies, in developing the capacity, infrastructure, policies and
706 procedures to electronically communicate with the State Contracting
707 Portal and the Department of Administrative Services' progress
708 toward establishment and maintenance of the State Contracting Portal.

709 Sec. 14. (NEW) (*Effective January 1, 2009*) On and after June 1, 2010,
710 all state contracts of each state contracting agency that take effect on or
711 after June 1, 2010, shall contain provisions to ensure accountability,
712 transparency and results based outcomes, as prescribed by the State
713 Contracting Standards Board. On and after June 1, 2010, all state
714 contracts of the Legislative Branch and the Judicial Branch that take
715 effect on or after June 1, 2010, shall contain provisions to ensure
716 accountability, transparency and results based outcomes.

717 Sec. 15. (*Effective January 1, 2009*) Nothing in sections 1 to 14,
718 inclusive, and 16 of this act shall be construed to affect the
719 requirements of public act 06-129.

720 Sec. 16. (NEW) (*Effective June 1, 2010*) (a) Except as otherwise
721 provided, the provisions of sections 16 to 46, inclusive, of this act shall
722 apply to all contracts solicited or entered into by state contracting
723 agencies after the effective date of this section.

724 (b) Except as otherwise provided, the provisions of sections 16 to 46,
725 inclusive, of this act shall apply to every expenditure of public funds
726 by any state contracting agency, irrespective of their source, involving
727 any state contracting and procurement processes, including, but not
728 limited to, leasing and property transfers, purchasing or leasing of
729 supplies, materials or equipment, consultant or consultant services,
730 personal service agreements, purchase of service agreements or
731 privatization contracts, as defined in section 1 of this act, and, relating
732 to contracts for the construction, reconstruction, alteration,
733 remodeling, repair or demolition of any public building, bridge or
734 road.

735 (c) Nothing in sections 16 to 46, inclusive, of this act, shall be
736 construed to require the application of procurement statutes or
737 regulations to a procurement that involves the expenditure of federal
738 assistance or federal contract funds if federal law provides
739 procurement procedures applicable to the expenditure of such funds,
740 to the extent such federal procedures are inconsistent with state

741 procurement statutes or regulations.

742 Sec. 17. (NEW) (*Effective June 1, 2010*) For the purpose of obtaining
743 supplies, materials, equipment or contractual services, except
744 infrastructure facilities, the Commissioner of Administrative Services
745 shall establish a requisition system to be used by state contracting
746 agencies to initiate and authorize the procurement process. Such
747 system shall be approved by the State Contracting Standards Board.

748 Sec. 18. (NEW) (*Effective October 1, 2009*) (a) All purchases of, and
749 contracts for, supplies, materials, equipment and contractual services
750 by any state contracting agency, except purchases and contracts made
751 pursuant to the provisions of section 22 of this act, shall be awarded by
752 one of the following methods, unless otherwise authorized by law:

753 (1) Competitive sealed bidding;

754 (2) Competitive sealed proposals;

755 (3) Small purchase procedure;

756 (4) Sole source procurement;

757 (5) Emergency procurements; or

758 (6) Waiver of bid or proposal requirement for extraordinary
759 conditions.

760 (b) Not later than June 1, 2010, the State Contracting Standards
761 Board shall adopt regulations, in accordance with the provisions of
762 chapter 54 of the general statutes, to define each of the methods listed
763 in subsection (a) of this section, establish the circumstances in which
764 each such method shall be used by state contracting agencies, and
765 establish the processes and criteria by which purchases and contracts
766 shall be awarded in accordance with each such method.

767 Sec. 19. (NEW) (*Effective January 1, 2009*) (a) Not later than June 1,
768 2010, the State Contracting Standards Board shall adopt regulations, in

769 accordance with the provisions of chapter 54 of the general statutes,
770 specifying the procedure for issuing invitations for bids which shall
771 include the required elements of an invitation for bids, the process for
772 opening of bids, and criteria for the evaluation and award of bids.

773 (b) Not later than June 1, 2010, the State Contracting Standards
774 Board, in consultation with the Commissioner of Administrative
775 Services shall adopt regulations, in accordance with the provisions of
776 chapter 54 of the general statutes, specifying the circumstances in
777 which contracts and purchase orders, in an amount in excess of fifty
778 thousand dollars, may be awarded by a method of source selection
779 other than competitive sealed bidding.

780 Sec. 20. (NEW) (*Effective January 1, 2009*) (a) Not later than January 1,
781 2010, the State Contracting Standards Board, in consultation with the
782 Department of Administrative Services, shall adopt regulations to
783 establish small purchase procedures for procurements that do not
784 exceed fifty thousand dollars. Such regulations shall include a
785 prohibition on the artificial division of a procurement in order to make
786 use of such small procurement procedures.

787 (b) The State Contracting Standards Board, in consultation with the
788 Commissioner of Administrative Services, may determine that a state
789 contracting agency has artificially divided procurement requirements
790 so as to constitute a small purchase under this section and, upon such
791 determination shall prohibit the state contracting agency from utilizing
792 such small purchase procedures.

793 (c) The State Contracting Standards Board, in consultation with the
794 Commissioner of Administrative Services, may waive the requirement
795 of competitive bidding or competitive negotiation in the case of minor,
796 nonrecurring or emergency purchases of ten thousand dollars or less
797 in amount.

798 Sec. 21. (NEW) (*Effective January 1, 2009*) Not later than June 1, 2010,
799 the State Contracting Standards Board, in consultation with the
800 Commissioner of Administrative Services, shall adopt regulations, in

801 accordance with the provisions of chapter 54 of the general statutes,
802 specifying the circumstances in which a contract may be awarded for a
803 supply, service or construction item without competition. Such
804 regulations shall include, but not be limited to, situations in which an
805 agency contracting officer states in writing that there is only one source
806 for the required supply, service or construction item, provided sole
807 source procurement is not permitted unless a requirement is available
808 from only a single supplier.

809 Sec. 22. (NEW) (*Effective January 1, 2009*) Not later than June 1, 2010,
810 the State Contracting Standards Board, in accordance with the
811 provisions of chapter 54 of the general statutes, shall adopt regulations
812 establishing procedures for waiver of competitive bid or proposal
813 requirements.

814 Sec. 23. (NEW) (*Effective January 1, 2009*) Not later than June 1, 2010,
815 the State Contracting Standards Board, in consultation with the
816 Commissioner of Administrative Services and any other appropriate
817 award authority, shall adopt regulations, in accordance with the
818 provisions of chapter 54 of the general statutes, permitting emergency
819 procurements when there exists a threat to public health, welfare or
820 safety. Such emergency procurements shall be made with competition,
821 as is practicable under the circumstances. Said regulations shall require
822 that a written determination of the basis for the emergency and for the
823 selection of the particular contractor be included in the contract file
824 and transmitted to the Governor, the president pro tempore of the
825 Senate, the majority and minority leaders of the Senate, the speaker of
826 the House of Representatives and the majority and minority leaders of
827 the House of Representatives.

828 Sec. 24. (NEW) (*Effective January 1, 2009*) A state contracting agency
829 may request factual information reasonably available to the bidder or
830 proposer to substantiate that the price or cost offered, or some portion
831 of it, is reasonable.

832 Sec. 25. (NEW) (*Effective January 1, 2009*) Not later than June 1, 2010,

833 the State Contracting Standards Board, in consultation with the
834 Commissioner of Administrative Services, shall adopt regulations, in
835 accordance with the provisions of chapter 54 of the general statutes,
836 establishing standards for the preparation, maintenance, and content
837 of specifications for supplies, services, and construction required by
838 the state.

839 Sec. 26. (NEW) (*Effective January 1, 2009*) Not later than June 1, 2010,
840 the State Contracting Standards Board, in consultation with the
841 Attorney General, shall adopt regulations, in accordance with the
842 provisions of chapter 54 of the general statutes, specifying the types of
843 contracts that may be used by state contracting agencies. Such
844 regulations shall specify that a cost-reimbursement contract may be
845 used only when a determination is made in writing by the Agency
846 Procurement Officer that such contract is likely to be less costly to the
847 state than any other type or that it is impracticable to obtain the
848 supplies, services or construction required except under such a
849 contract.

850 Sec. 27. (NEW) (*Effective January 1, 2009*) Not later than June 1, 2010,
851 the State Contracting Standards Board shall adopt regulations, in
852 accordance with the provisions of chapter 54 of the general statutes,
853 requiring that contractors submit appropriate documentation to the
854 appropriate state contracting agency, prior to the award of a contract,
855 to confirm that the proposed contractor's accounting system will
856 permit timely development of all necessary cost data in the form
857 required by the specific contract type.

858 Sec. 28. (NEW) (*Effective January 1, 2009*) Each contract of a state
859 contracting agency shall provide that a state contracting agency may,
860 at reasonable times, inspect the part of the plant or place of business of
861 a contractor or any subcontractor which is related to the performance
862 of any contract awarded, or to be awarded by the state, to ensure
863 compliance with the contract.

864 Sec. 29. (NEW) (*Effective January 1, 2009*) A state contracting agency

865 may audit the books and records of a contractor or any subcontractor
866 under any negotiated contract or subcontract to the extent that such
867 books and records relate to the performance of such contract or
868 subcontract. Such books and records shall be maintained by the
869 contractor for a period of three years from the date of final payment
870 under the prime contract and by the subcontractor for a period of three
871 years from the expiration of the subcontract.

872 Sec. 30. (NEW) (*Effective January 1, 2009*) When, for any reason,
873 collusion or other anticompetitive practices are suspected among any
874 bidders or proposers for a state contract, a notice of the relevant facts
875 shall be transmitted to the Attorney General by any affected party,
876 including, but not limited to, the state contracting agency, a bidder or a
877 proposer.

878 Sec. 31. (NEW) (*Effective January 1, 2009*) Each state contracting
879 agency shall retain and dispose of all procurement records in
880 accordance with records retention guidelines and schedules approved
881 by the Public Records Administrator.

882 Sec. 32. (NEW) (*Effective June 1, 2010*) The Agency Procurement
883 Officer of each state contracting agency shall maintain a record that
884 lists all contracts awarded pursuant to section 20 and the regulations
885 adopted under section 22 of this act for a minimum of five years after
886 the date of any such award. Such record shall contain:

887 (1) Each contractor's name;

888 (2) The amount and type of each contract; and

889 (3) A listing of the supplies, services or construction procured under
890 each contract.

891 Sec. 33. (NEW) (*Effective June 1, 2010*) (a) After reasonable notice and
892 hearing and consultation with the relevant state contracting agency
893 and the Attorney General, the State Contracting Standards Board,
894 acting through a subcommittee of three members, appointed by the

895 chairperson, which subcommittee shall include not less than one
896 legislative appointee, may disqualify any contractor, bidder or
897 proposer, for a period of not more than five years, from bidding on,
898 applying for or participating as a contractor or subcontractor under,
899 contracts with the state. Such disqualification shall be upon the vote of
900 two-thirds of the members of the subcommittee present and voting for
901 that purpose. Such hearing shall be conducted in accordance with the
902 provisions of chapter 54 of the general statutes. The subcommittee
903 shall issue a written recommendation not later than sixty days after the
904 conclusion of such hearing, and shall state the reason for the
905 recommended action and, if the disqualification is recommended, the
906 period of time the contractor, bidder or proposer shall be disqualified.
907 In determining whether to disqualify a contractor, bidder or proposer,
908 the subcommittee shall consider the seriousness of the acts or
909 omissions of the contractor, bidder or proposer and any mitigating
910 factors. Such recommendation shall be submitted to the board for
911 action and sent to the contractor by certified mail, return receipt
912 requested. If disqualification is recommended, the contractor shall
913 have thirty days to submit comments to the board. Upon receipt of the
914 proposed recommendation by the subcommittee, the board shall issue
915 a written decision either adopting, rejecting or modifying the
916 subcommittee's recommendation. Such decision shall be issued not
917 later than thirty days after receipt by the board of the contractor's
918 comments, if any. The board shall send the decision to the contractor
919 by certified mail, return receipt requested. The written decision shall
920 be a final decision for purposes of sections 4-180 and 4-183 of the
921 general statutes.

922 (b) Causes for such disqualification shall include the following:

923 (1) Conviction of, or entry of a plea of guilty or nolo contendere or
924 admission to, the commission of a criminal offense as an incident to
925 obtaining or attempting to obtain a public or private contract or
926 subcontract, or in the performance of such contract or subcontract;

927 (2) Conviction of, or entry of a plea of guilty or nolo contendere or

admission to, the violation of any state or federal law for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which affects responsibility as a state contractor;

(3) Conviction of, or entry of a plea of guilty or nolo contendere or admission to, a violation of any state or federal antitrust, collusion or conspiracy law arising out of the submission of bids or proposals on a public or private contract or subcontract;

(4) Accumulation of two or more suspensions pursuant to section 34 of this act within a twenty-four-month period;

(5) A wilful, negligent or reckless failure to perform in accordance with the terms of one or more contracts or subcontracts, agreements or transactions with state contracting agencies;

(6) A history of failure to perform or of unsatisfactory performance on one or more public contracts, agreements or transactions with state contracting agencies;

(7) A wilful violation of a statutory or regulatory provision or requirement applicable to a contract, agreement or transaction with state contracting agencies;

(8) A wilful or egregious violation of the ethical standards set forth in sections 1-84 and 1-86e of the general statutes, as determined by the Citizen's Ethics Advisory Board; or

(9) Any other cause or conduct the board determines to be so serious and compelling as to affect responsibility as a state contractor, including, but not limited to:

(A) Disqualification by another state for cause;

(B) The fraudulent or criminal conduct of any officer, director, shareholder, partner, employee or other individual associated with a

957 contractor, bidder or proposer of such contractor, bidder or proposer,
958 provided such conduct occurred in connection with the individual's
959 performance of duties for or on behalf of such contractor, bidder or
960 proposer and such contractor, bidder or proposer knew or had reason
961 to know of such conduct;

962 (C) The existence of an informal or formal business relationship
963 with a contractor who has been disqualified from bidding or
964 proposing on state contracts of any state contracting agency.

965 (c) Upon written request by the affected state contractor, bidder or
966 proposer, the State Contracting Standards Board may reduce the
967 period or extent of disqualification for a contractor, bidder or proposer
968 if documentation supporting any of the following reasons for
969 modification is provided to the board by the contractor, bidder or
970 proposer:

971 (1) Newly discovered material evidence;

972 (2) Reversal of the conviction upon which the disqualification was
973 based;

974 (3) Bona fide change in ownership or management; or

975 (4) Elimination of other causes for which the disqualification was
976 imposed.

977 Sec. 34. (NEW) (*Effective June 1, 2010*) (a) After reasonable notice and
978 a hearing, conducted in accordance with the provisions of chapter 54
979 of the general statutes, the department head of any state contracting
980 agency may suspend any contractor, bidder or proposer for a period of
981 not more than six months from bidding on, applying for or performing
982 work as a contractor or subcontractor under, contracts with the state.
983 The department head shall issue a written decision not later than
984 ninety days after the conclusion of such hearing and state in the
985 decision the reasons for the action taken and, if the contractor, bidder
986 or proposer is being suspended, the period of such suspension. In

determining whether to suspend a contractor, bidder or proposer, the department head shall consider the seriousness of the acts or omissions of the contractor, bidder or proposer and any mitigating factors. The department head shall send such decision to the contractor and the State Contracting Standards Board by certified mail, return receipt requested. Such decision shall be a final decision for purposes of sections 4-180 and 4-183 of the general statutes.

(b) Causes for such suspension shall include the following:

(1) Failure without good cause to perform in accordance with specifications or within the time limits provided in the contract;

(2) A record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for suspension;

(3) Any cause the complainant state contracting agency determines to be so serious and compelling as to affect the responsibility of a state contractor, including suspension by another state contracting agency for cause; or

(4) A violation of the ethical standards set forth in section 1-84, 1-86e or 1-101nn of the general statutes, as determined by the Citizen's Ethics Advisory Board.

(c) The State Contracting Standards Board may grant an exception permitting a suspended contractor to participate in a particular contract or subcontract upon a written determination by the Board that there is good cause for such exception and that such exception is in the best interest of the state.

(d) The department head of each state contracting agency shall conduct reviews of contractors and shall file reports pertaining to any of the reasons set forth in this section that may be the basis for

1017 disqualification.

1018 Sec. 35. (NEW) (*Effective June 1, 2010*) (a) Any bidder or proposer on
1019 a state contract may contest the solicitation or award of a contract to a
1020 subcommittee of the State Contracting Standards Board which shall be
1021 appointed by the chairperson of the board and consist of three
1022 members, at least one of whom shall be a legislative appointee. Such
1023 contest shall be submitted, in writing, not later than fourteen days after
1024 such bidder or proposer knew or should have known of the facts
1025 giving rise to such contest and shall be limited to the procedural
1026 elements of the solicitation or award process, or claims of an
1027 unauthorized or unwarranted, noncompetitive selection process.

1028 (b) The filing of a contest pursuant to this section shall not, alone, be
1029 deemed to prohibit the award or execution of any such contested
1030 contract.

1031 (c) The assigned subcommittee of the State Contracting Standards
1032 Board may settle and resolve any such contest.

1033 (d) In the event such contest is not resolved by mutual agreement,
1034 the assigned subcommittee of the State Contracting Standards Board
1035 shall issue a decision, in writing, not later than thirty days after receipt
1036 of any such contest. Such decision shall:

1037 (1) Describe the procedure used by such agency in soliciting and
1038 awarding such contract;

1039 (2) Indicate such agency's finding as to the merits of such bidder or
1040 proposer's contest; and

1041 (3) Inform such bidder or proposer of the right to review.

1042 (e) A copy of such decision shall be provided to such bidder or
1043 proposer.

1044 Sec. 36. (NEW) (*Effective June 1, 2010*) (a) Any contractor, bidder or
1045 proposer may appeal a decision issued by a department head,

1046 pursuant to section 34 of this act, to the State Contracting Standards
1047 Board.

1048 (b) Any such appeal shall be filed with the board not later than
1049 fourteen days after such contractor, bidder or proposer receives a
1050 decision issued pursuant to section 34 of this act. Such bidder or
1051 proposer shall set forth the facts supporting its claim in sufficient
1052 detail for the State Contracting Standards Board to determine whether
1053 the procedural elements of the solicitation or award failed to comply
1054 with the code or whether an unauthorized or unwarranted,
1055 noncompetitive selection process was utilized.

1056 (c) Any appeal filed pursuant to subsection (b) of this section shall
1057 not be deemed to prohibit the award or execution of any such
1058 contested contract.

1059 (d) The State Contracting Standards Board shall create a three-
1060 member appeals review subcommittee, one of whom shall be a
1061 legislative appointment, which shall review any request filed pursuant
1062 to subsection (b) of this section and decide whether such solicitation or
1063 award was in compliance with the statutes and regulations concerning
1064 procurement, and whether allegations of an unauthorized or
1065 unwarranted, noncompetitive selection process have been
1066 demonstrated. A unanimous vote of such subcommittee shall be
1067 dispositive of any such appeal. A split vote of such subcommittee shall
1068 result in a review of the appeal by the full membership of the board
1069 which, by a vote of two-thirds of its members present and voting for
1070 such purpose, shall decide whether the solicitation or award of such
1071 contract was in compliance with the statutes and regulations
1072 concerning procurement and whether allegations of an unauthorized
1073 or unwarranted, noncompetitive selection process have been
1074 demonstrated.

1075 (e) Such appeals review subcommittee shall issue a written decision
1076 or take other appropriate action on each appeal not later than ninety
1077 days after the filing of such appeal. A written copy of any such

1078 decision shall be provided to such bidder.

1079 (f) In the event of an appeal review by the full board, the board shall
1080 issue a written decision or take other appropriate action on such
1081 appeal not later than ninety days after receipt of the appeal from the
1082 appeals review subcommittee. A written copy of any such decision
1083 shall be provided to such bidder or proposer.

1084 (g) In the event that the appeals review subcommittee or the board
1085 determines that a procedural violation occurred, or that allegations of
1086 an unauthorized or unwarranted, noncompetitive selection process
1087 have been substantiated, the board shall direct the state contracting
1088 agency to take corrective action not later than thirty days after the date
1089 of the subcommittee's or board's decision, as applicable.

1090 (h) In the event such appeal is found to be frivolous by the appeals
1091 review subcommittee or the full board, such frivolous appeal may
1092 serve as a basis for disqualification pursuant to section 33 of this act.

1093 (i) Any three members of the board may request a full board review
1094 of any contract deliberation or award process of a state contracting
1095 agency.

1096 (j) A decision issued by the board or appeals review subcommittee
1097 under this section shall be final and not subject to appeal under
1098 sections 4-180 and 4-183 of the general statutes.

1099 Sec. 37. (NEW) (*Effective June 1, 2010*) The State Contracting
1100 Standards Board shall issue a decision in writing or take other
1101 appropriate action on each appeal submitted pursuant to section 36 of
1102 this act. A copy of any decision shall be provided to all parties, the
1103 department head of the state contracting agency and the Chief
1104 Procurement Officer.

1105 Sec. 38. (NEW) (*Effective June 1, 2010*) If, prior to award, it is
1106 determined by the State Contracting Standards Board that a
1107 solicitation or proposed award of a contract by a state contracting

1108 agency is in violation of law, then the solicitation or proposed award
1109 shall be:

1110 (1) Cancelled; or

1111 (2) Revised to comply with the law.

1112 Sec. 39. (NEW) (*Effective June 1, 2010*) (a) If, after an award, it is
1113 determined by the State Contracting Standards Board that a
1114 solicitation or award of a contract by a state contracting agency is in
1115 violation of law:

1116 (1) If the person awarded the contract did not act in bad faith:

1117 (A) The contract may be ratified and affirmed by the state
1118 contracting agency, provided it is determined by the board that doing
1119 so is in the best interests of the state; or

1120 (B) The contract may be terminated and the person awarded the
1121 contract shall be compensated for the actual expenses reasonably
1122 incurred under the contract, plus a reasonable profit, prior to the
1123 termination.

1124 (2) If the person awarded the contract acted in bad faith:

1125 (A) The contract may be declared null and void; or

1126 (B) The contract may be ratified and affirmed if such action is in the
1127 best interests of the state, as determined by the State Contracting
1128 Standards Board, in writing, without prejudice to the state's right to
1129 such damages as may be appropriate.

1130 Sec. 40. (NEW) (*Effective January 1, 2009*) Not later than June 1, 2010,
1131 the State Contracting Standards Board shall adopt regulations, in
1132 accordance with the provisions of chapter 54 of the general statutes,
1133 that specify the process that shall be used to procure architectural and
1134 engineering services in design-bid-build procurements, construction in
1135 design-bid-build procurements and construction management at-risk.

1136 Such regulations shall include a description of the project delivery
1137 methods.

1138 Sec. 41. (NEW) (*Effective January 1, 2009*) Not later than June 1, 2010,
1139 the State Contracting Standards Board shall adopt regulations, in
1140 accordance with the provisions of chapter 54 of the general statutes,
1141 that require bid security for all competitive sealed bidding for
1142 construction contracts in a design-bid-build procurement when the
1143 price is estimated by the state contracting agency to exceed five
1144 hundred thousand dollars.

1145 Sec. 42. (NEW) (*Effective January 1, 2009*) Not later than June 1, 2010,
1146 the State Insurance and Risk Management Board established pursuant
1147 to section 4a-19 of the general statutes shall adopt regulations, in
1148 accordance with the provisions of chapter 54 of the general statutes, in
1149 consultation with the State Contracting Standards Board, that specify
1150 when a state contracting agency shall require proposers to provide
1151 appropriate errors and omissions insurance to cover architectural and
1152 engineering services under the project delivery methods established in
1153 regulations adopted pursuant to section 40 of this act.

1154 Sec. 43. (*Effective January 1, 2009*) Not later than June 1, 2010, the
1155 State Contracting Standards Board shall adopt regulations, in
1156 accordance with the provisions of chapter 54 of the general statutes, to
1157 establish the process to be used to procure consultant services, and in
1158 consultation with the Attorney General, the type of contract to be used
1159 to procure such consultant services.

1160 Sec. 44. (NEW) (*Effective January 1, 2009*) With respect to
1161 infrastructure facilities, not later than June 1, 2010, the State
1162 Contracting Standards Board, in consultation with the state contracting
1163 agencies and the Attorney General, shall adopt regulations, in
1164 accordance with the provisions of chapter 54 of the general statutes,
1165 requiring the inclusion in state contracts with any state contracting
1166 agency of clauses providing for adjustments in prices, time of
1167 performance, remedies, termination or other contract provisions

1168 necessary to protect the interests of the state.

1169 Sec. 45. (NEW) (*Effective January 1, 2009*) Not later than June 1, 2010,
1170 the State Contracting Standards Board shall adopt regulations, in
1171 accordance with the provisions of chapter 54 of the general statutes,
1172 concerning the procedure and circumstances under which a state
1173 agency may allow contract modification, change order, or contract
1174 price adjustment under a construction contract with the state in excess
1175 of fifty thousand dollars. Such regulations shall require that every
1176 contract modification, change order or contract price adjustment under
1177 a construction contract with the state in excess of fifty thousand dollars
1178 shall be subject to prior written certification by the fiscal officer of the
1179 state contracting agency or other agency responsible for funding the
1180 project or the contract, or other official responsible for monitoring and
1181 reporting upon the status of the costs of the total project budget or
1182 contract budget, as to the effect of the contract modification, change
1183 order, or adjustment in contract price on the total project budget or the
1184 total contract budget. Such regulations shall further provide that in the
1185 event the certification of the fiscal officer or other responsible official
1186 discloses a resulting increase in the total project budget or the total
1187 contract budget, the Agency Procurement Officer shall not execute or
1188 make such contract modification, change order, or adjustment in
1189 contract price unless sufficient funds are available or the scope of the
1190 project or contract is adjusted so as to permit the degree of completion
1191 that is feasible within the total project budget or total contract budget
1192 as it existed prior to the contract modification, change order, or
1193 adjustment in contract price under consideration provided, with
1194 respect to the validity, as to the contractor, of any executed contract
1195 modification, change order, or adjustment in contract price which the
1196 contractor has reasonably relied upon, it shall be presumed that there
1197 has been compliance with the provisions of this section.

1198 Sec. 46. (NEW) (*Effective January 1, 2009*) On or after January 1, 2011,
1199 the State Contracting Standards Board shall adopt regulations, in
1200 accordance with the provisions of chapter 54 of the general statutes, to
1201 apply the contracting procedures, as described in sections 18 to 44,

1202 inclusive, of this act, to each constituent unit of the state system of
 1203 higher education. Such regulations shall take into consideration
 1204 circumstances and factors that are unique to such constituent units.

1205 Sec. 47. (*Effective July 1, 2008*) The sum of seven hundred thousand
 1206 dollars is appropriated to the State Contracting Standards Board, from
 1207 the General Fund, for the fiscal year ending June 30, 2009, for the
 1208 purpose of carrying out the duties of the State Contracting Standards
 1209 Board, as established in sections 3 to 46, inclusive, of this act."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2009</i>	New section
Sec. 2	<i>January 1, 2009</i>	New section
Sec. 3	<i>January 1, 2009</i>	New section
Sec. 4	<i>January 1, 2009</i>	New section
Sec. 5	<i>January 1, 2009</i>	New section
Sec. 6	<i>October 1, 2011</i>	New section
Sec. 7	<i>October 1, 2011</i>	New section
Sec. 8	<i>January 1, 2009</i>	New section
Sec. 9	<i>January 1, 2009</i>	New section
Sec. 10	<i>January 1, 2009</i>	New section
Sec. 11	<i>January 1, 2009</i>	New section
Sec. 12	<i>January 1, 2009</i>	New section
Sec. 13	<i>January 1, 2009</i>	New section
Sec. 14	<i>January 1, 2009</i>	New section
Sec. 15	<i>January 1, 2009</i>	New section
Sec. 16	<i>June 1, 2010</i>	New section
Sec. 17	<i>June 1, 2010</i>	New section
Sec. 18	<i>October 1, 2009</i>	New section
Sec. 19	<i>January 1, 2009</i>	New section
Sec. 20	<i>January 1, 2009</i>	New section
Sec. 21	<i>January 1, 2009</i>	New section
Sec. 22	<i>January 1, 2009</i>	New section
Sec. 23	<i>January 1, 2009</i>	New section
Sec. 24	<i>January 1, 2009</i>	New section
Sec. 25	<i>January 1, 2009</i>	New section
Sec. 26	<i>January 1, 2009</i>	New section
Sec. 27	<i>January 1, 2009</i>	New section

Sec. 28	<i>January 1, 2009</i>	New section
Sec. 29	<i>January 1, 2009</i>	New section
Sec. 30	<i>January 1, 2009</i>	New section
Sec. 31	<i>January 1, 2009</i>	New section
Sec. 32	<i>June 1, 2010</i>	New section
Sec. 33	<i>June 1, 2010</i>	New section
Sec. 34	<i>June 1, 2010</i>	New section
Sec. 35	<i>June 1, 2010</i>	New section
Sec. 36	<i>June 1, 2010</i>	New section
Sec. 37	<i>June 1, 2010</i>	New section
Sec. 38	<i>June 1, 2010</i>	New section
Sec. 39	<i>June 1, 2010</i>	New section
Sec. 40	<i>January 1, 2009</i>	New section
Sec. 41	<i>January 1, 2009</i>	New section
Sec. 42	<i>January 1, 2009</i>	New section
Sec. 43	<i>January 1, 2009</i>	New section
Sec. 44	<i>January 1, 2009</i>	New section
Sec. 45	<i>January 1, 2009</i>	New section
Sec. 46	<i>January 1, 2009</i>	New section
Sec. 47	<i>July 1, 2008</i>	New section